

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MDL NO. 2804

CASE NO. 17-md-2804

Hon. Dan A. Polster

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION

THIS DOCUMENT RELATES TO:

TRACK THREE CASES

VOLUME I

REMOTE VIDEO DEPOSITION OF

JAMES RAFALSKI

(CONTAINS TESTIMONY DESIGNATED HIGHLY CONFIDENTIAL)

June 10, 2021

REPORTED BY: Laura H. Nichols

Certified Realtime Reporter,

Registered Professional

Reporter and Notary Public

<p style="text-align: right;">Page 82</p> <p>1 you're telling them as an expert. Right? These 2 are DEA regulations. You're a DEA investigator 3 whose job it is to enforce those regulations. 4 Nobody knows those regulations, presumably, when 5 you're on the job, any better than you, and you're 6 coming in to a registrant and you're telling them 7 that they're okay, shouldn't they be able to rely 8 on that? 9 MS. KNIGHT: Objection to form. 10 A. As I answered earlier, I generally 11 agree with that. But there are certain areas that 12 a registrant should -- would seek a higher 13 approval. 14 Q. (BY MR. LIVINGSTON:) Let's now -- 15 I'd like to just give me a little road map here. 16 Let's now focus on the DEA regulations that you've 17 described in some detail so far this morning. 18 Let's -- to do that, let's -- 19 MS. KNIGHT: Mr. Livingston, if we're 20 switching gears, can we just take a quick 21 five-minute comfort break? Is this -- 22 MR. LIVINGSTON: Sure. 23 MS. KNIGHT: Okay. Real quick. 24 THE VIDEOGRAPHER: The time is now 25 approximately 9:18 a.m. We're off the record.</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes. 2 Q. What did -- when did you do it and 3 with respect to whom? 4 A. I think that's going to be another 5 Touhy issue, Mr. Livingston. 6 Q. Well, you just said that you did it, 7 so I don't think it's a Touhy issue. We need to 8 know -- 9 MS. KNIGHT: Mr. -- Mr. Livingston, 10 if he invokes Touhy, and believes that that's his 11 obligation under the law, then you can't override 12 that. You're very familiar with that rule. 13 MR. LIVINGSTON: I don't agree with 14 your position on it. 15 A. But I think to acknowledge it was 16 done is different than telling what I did or who I 17 did it with and who I did it for. 18 Q. (BY MR. LIVINGSTON:) Well, no. The 19 question was -- we know what you did because -- so 20 the question is: Did you ever take the seven 21 methodologies that are in your report and hand it 22 to somebody with a Ph.D. in data analysis to run 23 those methodologies through the registrant's data? 24 A. To that specific question, I would 25 answer no. I don't think that's the same question</p>
<p style="text-align: right;">Page 83</p> <p>1 (Whereupon, a break was had from 9:18 2 a.m. until 9:32 a.m. EDT) 3 THE VIDEOGRAPHER: The time is now 4 approximately 9:32 a.m. We're on the record. 5 Q. (BY MR. LIVINGSTON:) Now, 6 Mr. Rafalski, when you were conducting cyclic 7 investigations of -- inspections of distributors 8 back in the day when you were a DEA diversion 9 inspector, you never had a Dr. McCann at your side 10 to use the ARCOS data to run the methodologies that 11 he ran on the registrant, correct? 12 A. No. I would have access to analysts 13 that worked in headquarters in ARCOS. 14 Q. And did you ever have them run all 15 these methodologies for a registrant? 16 A. No. You were -- I thought you were 17 speaking in terms of doing a regulatory 18 investigation. 19 Q. Yeah. I'm just asking that -- I know 20 that to test the Defendants' compliance in this 21 case, you used Dr. McCann to assist you in running 22 the data through your methodologies. 23 Did you ever do that, or something 24 similar to that, when you were a DEA diversion 25 inspector?</p>	<p style="text-align: right;">Page 85</p> <p>1 you asked me earlier. 2 Q. So the answer is no? 3 A. That's correct. The answer is no. 4 Q. Okay. And remember when we were 5 talking before about the various levels of 6 enforcement that were available to you as a DEA 7 inspector, if a registrant was not in compliance 8 with the regulations? Do you remember when we 9 talked about that a minute ago? 10 A. Yes. Available to the agency, not to 11 me specifically. But, yes, I remember the 12 conversation. 13 Q. Right. 14 When you inspected distributors while 15 you were with the DEA, how often did you conclude 16 that they were in full compliance with all 17 applicable DEA regulations? Roughly, percentage, 18 you know, ten percent, sixty percent, a hundred 19 percent, ninety percent, whatever it is. 20 MS. KNIGHT: Objection to form. 21 A. Are you -- in regards to your 22 question, was that specific to distributors? 23 Q. (BY MR. LIVINGSTON:) Yes. 24 A. I think generally speaking, off the 25 top of my head, distributors -- there's a large</p>

<p style="text-align: right;">Page 86</p> <p>1 volume of regulations. So I would say that there 2 was generally at least maybe fifty percent, maybe a 3 little less of time where there would be some kind 4 of violation. 5 Q. Okay. All right. Would you turn to 6 Exhibit 6, Page 9? Giant Eagle Exhibit 6. 7 (GE Exhibit 6 was marked for 8 identification.) 9 Q. (BY MR. LIVINGSTON:) And the pages 10 are at the top. See, this is Section 1301.71 of 11 the DEA's Controlled Substance Act regulations? 12 MS. KNIGHT: Mr. Livingston, that's 13 not what's behind his tab. 14 A. 6? You said 6? 15 Q. (BY MR. LIVINGSTON:) Yes. 16 A. Tab 6 I have "Linden Barber" -- 17 Q. Yeah. No. It -- yeah, but just go 18 to the Page 9 at the top. It's a compilation of 19 various -- yeah. Yeah. It was a trick question. 20 Sorry about that. 21 A. No. I didn't hear the "Page 9." I'm 22 sorry. 23 Okay. I'm there. 24 Q. Yeah. You're familiar with this 25 regulation, correct?</p>	<p style="text-align: right;">Page 88</p> <p>1 the defendants are complying with this overarching 2 requirement for having effective controls, the DEA 3 says we're supposed to look at the -- all the 4 regulations between 72 and 76, correct? 5 A. That's what this says, yes, sir. 6 Q. Yeah. And that's what you did when 7 you were a DEA investigator, correct? 8 A. It's one of the things I did, yes, 9 sir. 10 Q. Okay. And the SOM regulation is one 11 of the regulations, but just one of the regulations 12 between 1301.72 and 1301.76, correct? 13 A. That's correct. 14 Q. And then if we skip down to 15 1301.71(b), it says, "Substantial compliance with 16 the standards set forth in Sections 1301.72 to 17 1301.76 may be deemed sufficient by the 18 administrator after evaluation of the overall 19 security needs -- or system -- overall security 20 system and needs of the applicant or registrant." 21 Do you see that? 22 A. Yes, sir. 23 Q. What does "substantial compliance" 24 mean? 25 A. Well, it -- the word "substantial"</p>
<p style="text-align: right;">Page 87</p> <p>1 A. Yes, sir. 2 Q. Okay. And when you would inspect 3 registrants, you would try to make sure that they 4 were complying with 1301.71, correct? 5 A. Among many other regulations, yes. 6 Q. I didn't mean it to be exclusive. 7 But among -- that you would make sure they were in 8 compliance at least with 1301.71? 9 A. Yes. 10 Q. And this regulation says, "All 11 applicants and registrants shall provide effective 12 controls and procedures to guard against theft and 13 diversion of controlled substances." 14 That is one of the regulations that 15 you believe the defendants did not comply with in 16 this case, correct? 17 A. That's correct. 18 Q. Now, the next sentence says, "In 19 order to determine whether a registrant has 20 provided effective controls against diversion, the 21 administrator" -- that's really the DEA, right -- 22 "shall use the security requirements set forth in 23 Sections 1301.72 through 1301.76," correct? 24 A. Yes. 25 Q. Okay. So if we want to know whether</p>	<p style="text-align: right;">Page 89</p> <p>1 would mean in compliance, substantial, more than 2 just trying. It would be substantial in 3 compliance. 4 Q. Well, doesn't it mean less -- at 5 least less than one hundred percent? 6 A. That may be your interpretation. I 7 think "substantial" would mean in compliance. 8 Q. Well, are you saying that your 9 definition of "substantial" is there has to be 10 perfect compliance? 11 A. I don't know that I'm saying there's 12 perfect. But I think you couldn't find any obvious 13 faults. It would be in compliance. 14 Q. Well, I mean, let's just assume that 15 you're -- you get -- you're in compliance with nine 16 out of ten or ten out of eleven. I mean, is that 17 substantial? Or do you have to have perfect 18 compliance? You can't be noncompliant with any 19 regulation to be "in substantial compliance with 20 the regulations"? 21 MS. KNIGHT: Objection to form. 22 A. I think substantial -- because if we 23 look down at the column of different items to be in 24 compliance with, they're broad and they give 25 various descriptions. So I think "substantial"</p>

<p style="text-align: right;">Page 98</p> <p>1 ask Dr. McCann to take into consideration, when he 2 did his analysis, the closures or any stores, or 3 anything from a market standpoint, that might have 4 affected the demand for drugs at any particular 5 pharmacy that was analyzed, correct? 6 A. I would agree with that statement, 7 Mr. Livingston. 8 Q. You were involved in the Dr. Leo 9 Ognen investigation. He was a bad doctor; is that 10 correct? 11 A. Dr. Leo Ognen, yes, sir. 12 Q. Could you go to your report, Exhibit 13 2, at Page 5? His investigation is one of the ones 14 that you listed in your report. 15 A. That's correct. 16 Q. And you also indicated that it was 17 that investigation and resulting criminal 18 conviction that led to the creation of the OARRS 19 database in Ohio; was that correct? 20 A. No. I recognized that you could draw 21 that conclusion from that statement. What I was 22 trying to say in that statement is Dr. Ognen was 23 way pre-OARRS. So that was one of the first, that 24 I was aware of, where I kind of created my own 25 OARRS, for a better term.</p>	<p style="text-align: right;">Page 100</p> <p>1 Dr. Ognen in no way sparked the interest in Ohio 2 for enacting OARRS, correct? 3 A. Yes. As I previously stated, I 4 understand reading that, that you could draw that 5 conclusion, but that wasn't my intent. 6 I -- in doing that investigation, we 7 actually created a prescriber database that would 8 have been similar to OARRS, but it was only 9 specific to Dr. Ognen. 10 Q. Now, your opinion is that Giant Eagle 11 violated the DEA's SOM regulation, correct? 12 A. Yes, sir. 13 Q. And for what period of time do you 14 claim that Giant Eagle violated the DEA SOM 15 regulation? 16 A. All the way through to 2016. And I 17 don't know further than 2016 because I didn't do an 18 in-depth review post 2016. I know that they had 19 some issues that brought them -- looked like they 20 appeared to be coming into compliance. But 21 definitely from the time frame of 2000 -- prior to 22 2009 all the way to 2016. 23 Q. Okay. I am -- yeah. It wasn't clear 24 to me when I read your report what your time frame 25 is for Giant Eagle's purported noncompliance. So</p>
<p style="text-align: right;">Page 99</p> <p>1 So to conduct that investigation, 2 literally had to go to multiple pharmacies in Ohio 3 and obtain prescribing reports and create a -- 4 similar to the OARRS. But I did not design the 5 OARRS. 6 (GE Exhibit 46 was marked for 7 identification.) 8 Q. (BY MR. LIVINGSTON:) Why don't we 9 look at Exhibit 46, because I want to try to get 10 the timing down right here. 11 This is a 2003 Bill Tracking for 12 the -- what ultimately became the Ohio legislation 13 that created OARRS. 14 And do you see that under "Status" it 15 was first introduced in January of 2004, correct? 16 A. Yes. 17 Q. And Dr. Ognen, according to his 18 indictment, he was still engaged in a criminal 19 conspiracy through much of 2004, correct? 20 A. That's correct. 21 But looking at the bill for Ohio, I 22 think the bill was passed, signed in 2005 by the 23 governor. But I don't think the actual OARRS 24 became implemented until a much later date. 25 Q. Right. But your investigation of</p>	<p style="text-align: right;">Page 101</p> <p>1 you are saying, you are clarifying that Giant 2 Eagle's purported noncompliance only was from 2009 3 when they first started distributing Schedule 3 4 drugs, you say, through 2016? 5 THE REPORTER: You are getting a 6 little soft, Mr. Livingston. 7 MR. LIVINGSTON: Okay. Is that 8 better? 9 THE REPORTER: Yes, sir. 10 MR. LIVINGSTON: Thank you. 11 A. Well, they -- so there was two 12 facilities. The first facility stopped 13 distributing this 2014. 14 Q. (BY MR. LIVINGSTON:) Right. When 15 there was a reclassification from hydrocodone from 16 Schedule 3 to 2, correct? 17 A. Correct. And then they did not 18 self-distribute for a couple of years, and then 19 they started back self-distributing in 2016. So my 20 opinion definitely goes from 2009 to 2014 and then 21 when they started to self-distribute again from the 22 GERX DC, I have some information contained in my 23 report, but I did not have enough information to 24 make a definitive opinion on their conduct post 25 2016.</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. All right. So let's just focus on 2 the gap period between 2014 and '16 when the second 3 facility known as GERX was opened up. You have no 4 opinion obviously that Giant Eagle was doing 5 anything wrong as a distributor because they were 6 not a distributor, correct? 7 A. No, I don't agree with that. 8 Q. So even though they were not a 9 distributor after 2014, you are saying they were 10 still not complying with the SOM regulation? 11 A. I didn't say the SOM regulation. 12 That wasn't -- I don't believe that was the 13 question you asked. 14 Q. Yeah, I think you are getting me -- I 15 am starting to chase my tail here or feel like it. 16 So are you saying yes or no that you 17 have an opinion post 2014 about Giant Eagle? 18 A. I believe the period between 2014 and 19 2016, there's a maintenance of effective controls 20 issue with the distribution from I believe it was 21 McKesson that distributed to them. But in 22 regards -- if we are just talking specifically 23 SOMs, I do not have an opinion past 2014 on the 24 SOMs issue. 25 Q. So in the period that you mentioned</p>	<p style="text-align: right;">Page 104</p> <p>1 were not monitoring what their pharmacies were 2 doing. 3 A. Well, the issue is that a level of 4 prescribing continued, and maybe even escalated, 5 after they stopped self-distributing. So the 6 conduct, I don't believe -- I believe that the 7 maintenance of effective controls would require 8 them still to be responsible for what their 9 pharmacies were purchasing from McKesson. 10 Q. Are you saying that Giant Eagle -- 11 well, let me -- did you or did you not examine 12 Giant Eagle's dispensing levels for the drugs in 13 question in this case? 14 A. Yes, sir. 15 THE REPORTER: I couldn't understand 16 if you said yes, sir or no, sir. 17 A. I said yes, sir. 18 Q. (BY MR. LIVINGSTON:) Isn't it true 19 that Giant Eagle's dispensing of the drugs in 20 question in this case decreased over time starting 21 in 2012? 22 A. I would have to go to my report to 23 look at least to the chart or some of the McCann 24 charts. So off the top of my head, I don't -- I'm 25 not sure on that, just sitting off the top of my</p>
<p style="text-align: right;">Page 103</p> <p>1 after 2014 with respect to McKesson, Giant Eagle 2 was a customer of McKesson, correct? 3 A. That's correct. 4 Q. And you are saying that, as a 5 customer, Giant Eagle had an obligation to have a 6 SOMs system? 7 MS. KNIGHT: Objection to form. 8 A. I don't think the regulation requires 9 that -- requires that. I think, as a chain 10 pharmacy, I think they still had the responsibility 11 to monitor the purchases of their -- of their 12 pharmacies. 13 Q. (BY MR. LIVINGSTON:) And do you have 14 any evidence at all that suggests that Giant 15 Eagle's corporate office did not monitor and did 16 not know what its pharmacies were ordering from 17 McKesson? 18 A. I think they did monitor that because 19 they obviously were ordering them and making 20 payments. So I think they were still aware of the 21 levels of drugs that their pharmacies were 22 receiving. They just weren't distributing. 23 Q. Right. And so -- but I thought you 24 mentioned that they were violating the DEA 25 regulations as a customer of McKesson because they</p>	<p style="text-align: right;">Page 105</p> <p>1 head, Mr. Livingston. 2 Q. Isn't it true that Giant Eagle's 3 dispensing of the drugs in question in this case 4 went down at -- at the same time that the DEA 5 quotas for many of these drugs were actually 6 increasing? 7 A. Hold on. Let me look at my report. 8 (Pause.) 9 A. Looking at the charts in my report, I 10 do not agree with you, Mr. Livingston, on that. 11 Q. (BY MR. LIVINGSTON:) What reports -- 12 charts are you referring to? 13 A. Looking at the Lake County on Page 14 152. I guess there would be a slight decrease. I 15 wouldn't call it a significant decrease. And then 16 on Page 151, 150, I would say there may be a slight 17 decrease. 18 Q. Well, Mr. Rafalski, you realize that 19 these charts that Dr. McCann produced relate to 20 distribution, correct? 21 A. Yes. 22 Q. They don't -- these are not 23 dispensing charts, correct? 24 A. Well, I think if they were 25 distributed to the pharmacies, they were dispensed.</p>

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<p style="text-align: right;">Page 443</p> <p>1 typical a business activity for a distributor. 2 Q. All right. Why don't we go to 3 Exhibit 33, Giant Eagle 33. 4 MS. KNIGHT: Counsel, we have been 5 going a little over an hour. Are we at a good like 6 five-minute stopping break? 7 MR. LIVINGSTON: Yeah, that is fine. 8 MS. KNIGHT: Really, just five 9 minutes should be fine. 10 THE VIDEOGRAPHER: Okay. We will go 11 off the record at 9:13. 12 (Whereupon, a break was had from 9:13 13 a.m. until 9:24 a.m. EDT) 14 THE VIDEOGRAPHER: We are back on the 15 record at 9:24. 16 Q. (BY MR. LIVINGSTON:) Mr. Rafalski, 17 can you tell me how many preregistration 18 inspections Giant Eagle's HBC and GERX facilities 19 had? 20 A. I cannot, sir. 21 Q. Do you know how many cyclic 22 inspections Giant Eagle's HBC and GERX facilities 23 had during the time frame that we have been talking 24 about for this case? 25 A. No, sir. I do not.</p>	<p style="text-align: right;">Page 445</p> <p>1 over the night, I'm not comfortable with that 2 answer, mainly because I didn't keep a scorecard. 3 And early in my career, before there was electronic 4 ordering, there was generally record violations. 5 But as time went on, I'm not confident with fifty 6 percent, as that is kind of a guess, and I don't 7 like to guess. 8 So I am not going to stand by the 9 fifty percent. That is what I wanted to correct 10 this morning. 11 Q. Well, are you telling me that you are 12 uniquely qualified to give opinions about whether 13 distributors are complying with their DEA 14 regulatory obligations, you were with the DEA for 15 twelve, thirteen years, and you can't even ballpark 16 it for us how often you end up, when you were doing 17 your inspections, how often you ended up, you know, 18 at least sending out a letter of admonishment to 19 the distributor? 20 MS. KNIGHT: Object to form. 21 A. I think that is an important 22 question, and I don't want to guess on that, 23 Mr. Livingston. I don't want to ballpark it. 24 Q. (BY MR. LIVINGSTON:) And not only 25 did you tell us yesterday under oath that your best</p>
<p style="text-align: right;">Page 444</p> <p>1 Q. All right. Well, let me represent to 2 you that they had three preregistration inspections 3 and eight cyclic inspections between 1997 and 2020. 4 You would agree that that is a 5 significant number of inspections, right? 6 MS. KNIGHT: Objection to the form. 7 A. Is that specific to the GERX DC or at 8 both facilities? I'm sorry. 9 Q. (BY MR. LIVINGSTON:) I said both 10 facilities. 11 A. Both. 12 Q. Collectively. 13 A. That would be probably an expected 14 amount. 15 Q. And I think you testified yesterday 16 that typically distributors end up fifty percent of 17 the time when they have their facilities inspected 18 getting at least a letter of admonishment from the 19 DEA, correct? 20 A. That is the matter I wanted to 21 discuss with you this morning before starting my 22 testimony. 23 Q. Well, yes or no, you said that under 24 oath yesterday? 25 A. I did say that. In rethinking that</p>	<p style="text-align: right;">Page 446</p> <p>1 estimate was fifty percent, but in another opioids 2 case you also testified under oath that it was 3 fifty percent. 4 MS. KNIGHT: Objection to form. 5 A. I don't recall that. But I am not 6 comfortable, without having the ability to go back 7 and look and give an accurate number, with just 8 using fifty percent. 9 Q. (BY MR. LIVINGSTON:) Let's go to 10 Exhibit 47. 11 (GE Exhibit 47 was marked for 12 identification.) 13 Q. (BY MR. LIVINGSTON:) Do you see 14 that -- Exhibit 47 is portions of your videotaped 15 deposition transcript from the New York opioids 16 case. 17 A. I see that. 18 Q. And it was taken in February of 2020, 19 correct? 20 A. Yes, sir. 21 Q. Would you go to Page 849, 850. 22 At the bottom of Page 849, starting 23 on Line 20, you were asked, "What about for 24 distributors? How common was it that you would 25 issue -- the DEA would issue letters of admonition</p>

<p style="text-align: right;">Page 447</p> <p>1 following inspections or audits?"</p> <p>2 Answer: "I think it would be at</p> <p>3 least fifty percent," correct?</p> <p>4 A. Yes. But that question, I think, is</p> <p>5 just about inspections, not specific to</p> <p>6 distributors.</p> <p>7 Q. It says "what about for</p> <p>8 distributors"?</p> <p>9 A. Later on it does say fifty cent --</p> <p>10 fifty percent. I acknowledge that.</p> <p>11 Q. And that was your testimony given</p> <p>12 under oath in the New York case, correct?</p> <p>13 A. That is what I stated, yes.</p> <p>14 Q. And you also stated it under oath</p> <p>15 yesterday?</p> <p>16 A. I did. I said it was -- I believe I</p> <p>17 said it was a best guess, and I am not comfortable</p> <p>18 guessing about that.</p> <p>19 Q. And so you just woke up in the middle</p> <p>20 of the night thinking, oh, my gosh, I better change</p> <p>21 this testimony, or did you have a conversation with</p> <p>22 any person about this particular issue?</p> <p>23 A. I had no conversations. I did not</p> <p>24 wake up in the middle of the night. When I got</p> <p>25 back after my testimony, I was having dinner by</p>	<p style="text-align: right;">Page 449</p> <p>1 inspections, as I have stated just earlier, there's</p> <p>2 all kinds of violations. Typically early in my</p> <p>3 career, record violations were pretty common,</p> <p>4 especially related to distribution because they</p> <p>5 were paper forms. Later on they became a little</p> <p>6 more compliant. There's always the potential.</p> <p>7 But in your statement earlier, I'm</p> <p>8 not aware of what the DEA in a totality, how many</p> <p>9 LOAs are issued. Only my experience with my cases</p> <p>10 and people that I am with in Detroit.</p> <p>11 But every time I go in, I hope and</p> <p>12 expect that there's no violations. It is not</p> <p>13 something that is -- I seek to find. That is -- a</p> <p>14 good, compliant investigation is good because they</p> <p>15 are compliant with the regulations.</p> <p>16 Q. Well, can you identify, not give us</p> <p>17 the particular name, but just can you think of any</p> <p>18 distributor who you inspected that often who -- for</p> <p>19 whom you found no violations at all?</p> <p>20 A. I have never had an inspection as</p> <p>21 often as what is happening. If Mr. Colosimo was on</p> <p>22 each one of those, I have never had that situation</p> <p>23 in Detroit, so wider geographic area and more</p> <p>24 investigators.</p> <p>25 There have been some that I have had</p>
<p style="text-align: right;">Page 448</p> <p>1 myself and thinking about that number and being a</p> <p>2 guess, and I wasn't comfortable with it.</p> <p>3 Q. All right. Did you ever have trouble</p> <p>4 after you gave the New York testimony? Did you</p> <p>5 ever recant that testimony?</p> <p>6 A. I did not.</p> <p>7 MS. KNIGHT: Objection to the form.</p> <p>8 A. I did not.</p> <p>9 Q. (BY MR. LIVINGSTON:) Well,</p> <p>10 regardless of what the exact percentage is or is</p> <p>11 not for how often the DEA would issue letters of</p> <p>12 admonition after an inspection to a distributor,</p> <p>13 you would agree that Giant Eagle's record of all</p> <p>14 clean inspections for three preregistration</p> <p>15 inspections and eight cyclic inspections is</p> <p>16 exemplary, correct?</p> <p>17 MS. KNIGHT: Objection to form.</p> <p>18 A. I would say that is expected.</p> <p>19 Q. (BY MR. LIVINGSTON:) Well, you said</p> <p>20 it was expected, but you also have said that it</p> <p>21 was -- forget the percentage, that it certainly</p> <p>22 wasn't uncommon for even a single -- for</p> <p>23 distributors to get letters of admonition for not</p> <p>24 being in compliance after an inspection?</p> <p>25 A. I did say that. And doing</p>	<p style="text-align: right;">Page 450</p> <p>1 recollection that had no violations. I don't know</p> <p>2 that they had them every time. And there was no</p> <p>3 registrants that were exclusive to me that I would</p> <p>4 do every one. They are generally distributed --</p> <p>5 they are generally avoided where you don't always</p> <p>6 go to the same place. That sometimes happens in</p> <p>7 offices where there's smaller numbers of</p> <p>8 investigators.</p> <p>9 Q. When -- yeah. I didn't suggest that</p> <p>10 Mr. Colosimo was the agent or investigator,</p> <p>11 inspector who inspected each time. He just</p> <p>12 testified about each of those inspections.</p> <p>13 But let me ask you this: How many</p> <p>14 times did you investigate or inspect a distributor</p> <p>15 more than once?</p> <p>16 A. There's a couple I can recall doing</p> <p>17 more than once.</p> <p>18 Q. Which one was the more -- more than</p> <p>19 twice?</p> <p>20 A. I'm not going to guess on that. And</p> <p>21 one of the reasons is sometimes I go as the lead,</p> <p>22 so it is my assignment. Sometimes I go as a backup</p> <p>23 or assisting somebody. So I may have visited and</p> <p>24 been present but not the lead. And I am not going</p> <p>25 to guess on that because I just don't know. I</p>